

Independent Review Panel

Staff Report

September 21, 2006

Complaint: B 2006.190

Complainant: Elisa Toruno

Aggrieved Party: Nilka Gomez

Accused Parties: Team Metro

Date Complaint Received: July 26, 2006

Materials Reviewed: Correspondence, staff notes, emails

Complaint: The complainant stated she is the treasurer for Nilka Gomez who was running for a seat on Community Council 15. The complainant stated she called Team Metro in late June and spoke to Peter Gomez to ask which sub-area Ms. Gomez needed to file for. Mr. Gomez told the complainant it was sub-area 154. The complainant stated they also spoke to Lourdes Avalos, Customer Service Supervisor, who agreed that Ms. Gomez lived within sub-area 154. The complainant stated they went to Elections on July 17th to file for candidacy in sub-area 154. The complainant stated Elections employees reviewed all the documents and nothing was said that Ms. Gomez did not qualify. Ms. Gomez received a call on July 25th from Elections advising her she had to withdraw from the race because a complaint was filed that Ms. Gomez did not live in sub-area 154 and therefore did not qualify to run. Ms. Gomez withdrew immediately. The complainant stated that at the time both Elections and Team Metro had incorrect information about which sub-area Ms. Gomez qualified for. The complainant stated the misinformation made Ms. Gomez look bad. She wants the elections for sub-areas 154, 151 and 152 voided and a refund of the \$100 filing fee.

Staff Findings:

A. Regarding the allegation:

Staff found the allegation that Team Metro provided inaccurate information to be **SUSTAINED** based on the following:

- 1- Staff spoke with Lourdes Avalos, Customer Service Supervisor Team Metro Central, who admitted that Peter Gomez did provide inaccurate information to Ms. Gomez because the information he was looking at was outdated. (The County Commission changed the Community Council boundaries after Cutler Bay incorporated on March 17, 2006).

2- Staff spoke with Maria Saboya, Deputy Supervisor of Elections, who stated that the information they had came from Team Metro, (Team Metro is in charge of updating Community Council boundaries) and it was outdated. However, they do not verify the residency requirement for a candidate they only accept the paperwork and qualifying fee. The qualifying fee is sent to the state.

B. Other Findings:

1- Ms. Saboya stated that when a complaint is filed by a citizen regarding a candidate's eligibility, regulations require that the information be sent to the Commission on Ethics and Public Trust for investigation.

2- Staff spoke with Robert Meyers, Executive Director of the Commission on Ethics and Public Trust, and he stated since Ms. Gomez voluntarily withdrew her candidacy upon hearing she did not qualify, there would be no investigation into malfeasance on her part.

Staff Resolution:

- 1- Staff recommended that Team Metro provide Ms. Gomez with a letter admitting fault for inadvertently providing inaccurate information, so she can request a refund from the state. Team Metro agreed (see attached letter) and the complainant stated she was satisfied.
- 2- Staff recommends that Elections and Team Metro establish a shared electronic database where Community Council boundaries can be updated immediately to avoid the lapse in time for the changes to be made manually and communicated between departments.



Team Metro
Office of the Director
111 NW 1st Street • Suite 1470
Miami, Florida 33128
T 305-375-4845 F 305-372-6386

miamidade.gov

July 31, 2006

Ms. Nilka Gomez
11415 SW 247 Terrace
Miami, FL 33032

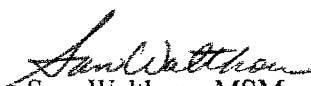
Dear Ms. Gomez:

On July 24, 2006, my office received copy of a petition to challenge your candidacy from the Department of Elections for the upcoming Community Council Subarea 154 seat vacancy. After researching the matter, it became apparent that my staff provided your associate, Ms. Elisa Toruño, erroneous information pertaining to the corresponding subarea for the address provided over the telephone. A list of precincts corresponding to Community Council 15 subareas was last updated in February 2006, after the Board of County Commissioners modified the subarea boundaries of Community Council 15. It appears that the list used to provide the information was an outdated one. It also appears that you received similar inaccurate information from other county departments.

This letter is to apologize for the inconvenience this situation has caused you and to assist you, if at all possible, in obtaining a refund of your \$100 qualifying fee. We are currently brainstorming ways to improve the candidate qualifying process in order to prevent this issue from recurring. Unfortunately, there are many manual steps in the process, which lend themselves to human error. We have also identified some missing links in the way candidates are qualified. Addressing some of these may require legislative changes, which is why we have begun the review process immediately.

We do not intend to let this issue go unresolved. We recognize that the reputation of our electoral process is at stake when circumstances such as this arise. We will work feverishly to work through this issue.

Sincerely,


Sam Walthour, MSM
Director

c: Roger M. Carlton, Assistant County Manager
Lester Sola, Supervisor of Elections
Fernando Robreno, Independent Review Panel

Working on it every day

ADA Coordination
Agenda Coordination
Animal Services
Art in Public Places
Audit and Management Services
Aviation
Building
Building Code Compliance
Business Development
Capital Improvements Construction Coordination
Citizens' Independent Transportation Trust
Commission on Ethics and Public Trust
Communications
Community Action Agency
Community & Economic Development
Community Relations
Consumer Services
Corrections & Rehabilitation
Cultural Affairs
Elections
Emergency Management
Employee Relations
Empowerment Trust
Enterprise Technology Services
Environmental Resources Management
Fair Employment Practices
Finance
Fire Rescue
General Services Administration
Historic Preservation
Homeless Trust
Housing Agency
Housing Finance Authority
Human Services
Independent Review Panel
International Trade Consortium
Juvenile Assessment Center
Medical Examiner
Metro-Miami Action Plan
Metropolitan Planning Organization
Park and Recreation
Planning and Zoning
Police
Procurement Management
Property Appraiser
Public Library System
Public Works
Safe Neighborhood Parks
Seaport
Solid Waste Management
Strategic Business Management
Team Metro
Transit
Task Force on Urban Economic Revitalization
Vizcaya Museum And Gardens
Water & Sewer

SWORN STATEMENT

Before me, the undersigned authority, personally appeared Enid W. Demps, known, to me to be the person whose name is subscribed to this instrument, who, after first being duly sworn by me, upon oath stated:

1. Enid W. Demps the undersigned, a registered elector
(Please print name)

In Miami-Dade County, in the State of Florida, in Community Council Area 15 and Sub-area 151 petition the Supervisor of Elections pursuant to Section 12-11 of the Code of Miami-Dade County, Florida do challenge the qualification of the candidacy of NILKA GOMEZ. According to the candidate qualifying papers she does not live in the Community Council Sub-area for which she has qualified for at the end of the qualifying period.

I am able to swear, as I do hereby swear, that all facts and statements contained in this affidavit are true and correct and within my personal knowledge.

Enid W. Demps (signed)

Further affiant saith not.

State of Florida, County of Miami-Dade

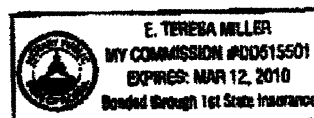
Subscribed and sworn to before me this 24th day of July, 2006.

By

E. Teresa Miller
(Signature of Notary Public - State of Florida)

E. Teresa Miller

(Print, Type or Stamp Commissioned Name of Notary Public)



☒ Personally known to me

☐ Identification provided

MIAMI-DADE
ELECTIONS

2006 JUL 24 PM 2:29

RECEIVED

Nilka Gomez
11415 SW 247 Terrace
Princeton, FL 33032

July 26, 2006

HAND-DELIVERED

Mr. Lester Sola, Supervisor of Elections
Elections Department
2700 NW 87th Ave.
Doral, FL 33172

Re: Candidate ID #493 - Nilka Gomez

Dear Mr. Sola:

Per our discussions, I am being forced to resign my candidacy for a seat in Community Council 15, after Enid W. Demps filed a complaint against me for running in the wrong subarea.

As I informed you, I did not intentionally and knowingly apply for that subarea as I first obtained information both from Team Metro and the Department of Elections, where I was informed that my precinct #928 was located in subarea 154. Relying in what I assumed to be correct information from Dade County officials, I submitted my candidacy and was qualified by your Department on July 18, 2006.

Enclosed is my executed Oath of Withdrawal and a printout I received from the Department of Elections showing precinct #928 in subarea 154. It is obvious that your records are not maintained current. This mistake has caused me embarrassment and emotional distress, and a waste of valuable time seeking an office in order to serve my community.

May I suggest that in the future the County departments involved with this process exercise more care and restraint when providing information to any citizen attempting to run for public office. Based on your mistake, I am requesting a refund of my \$100 qualifying fee.

Nilka Gomez

cc: Commission of Ethics

Lester Sola
Supervisor of Elections
Miami-Dade County Elections Department
2700 NW 87 Avenue, Miami, FL 33172
305-499-8683 (office)
305-468-2507 (fax)
305-308-9285 (cell)

<http://elections.miamidade.gov>
"Delivering Excellence Every Day"

"Con Excelencia, Día Tras Día"

"Livres Bon Kalite Sèvis Chak Jou"

Miami-Dade County is a public entity subject to Chapter 119 of the Florida Statutes concerning public records. E-mail messages are covered under such laws and thus subject to disclosure.

From: Elisa Toruno [mailto:torunome@bellsouth.net]
Sent: Tuesday, July 25, 2006 4:10 PM
To: Sola, Lester (Elections); Mayor (Carlos Alvarez); County Manager (CMO)
Cc: kfordyce@miamiherald.com
Subject: Disqualification of candidate

In the month of June we learned that Community Council 15 was being reorganized after the incorporation of Cutler Ridge and therefore vacancies were available for qualified candidates. I personally called Lourdes Avalos of Team Metro to inquire about the subarea for Nilka Gomez' address, but after speaking with Lourdes Avalos and Com. Sorenson's aide Lourdes, we were told that Lourdes was on vacation. The person doing Lourdes Avalos' work was George Gomez, with whom I spoke at length and who informed me that according to that address our subarea is 154.

Nilka prepared her documentation to run for a seat in subarea 154 and filed it on July 17, 2006. On July 18, 2006 Elections accepted her after paying a \$100 filing fee. A campaign account was opened at BankUnited, flyers, cards and other propaganda material have been ordered and paid for. A few moments ago Nilka received a phone call from Lourdes Avalos stating that there had been a complaint filed against her because she is running in the wrong subarea and that because the deadline to file as a candidate has passed, she is being disqualified.

We have been informed that Commissioner Moss changed the district boundaries and apparently forgot to inform the corresponding County offices. We would believe this mistake happening in a Third World country but not in the USA. I would appreciate informing us:

1. The name of the person that filed the complaint against Nilka Gomez
2. Is the County going to reimburse Ms. Gomez her expenses made relying on the misinformation from George Gomez, as well as the Elections Department that should have had the change of boundaries by Com. Moss and should not have accepted Ms. Gomez' application if there was an error in the subarea;
3. Constantly changing District boundaries shows incompetence on the part of our elected officials, but the lack of coordination with the County departments in charge of giving out this information to the citizens is a poor reflection on the whole County government. If our bureaucrats cannot keep their data up to date and provide inaccurate and false information to us citizens, why do citizens have to suffer the consequences of this incompetence?

We await your response with interest.

7/26/2006

Robreno, Fernando Luis (IRP)

From: Elisa Toruno [torunome@bellsouth.net]
Sent: Wednesday, July 26, 2006 11:49 AM
To: Robreno, Fernando Luis (IRP)
Subject: FW: Disqualification of candidate

I'm forwarding to you the sequence of e-mails exchanged with Mr. Sola from Elections regarding Nikki's disqualification.

From: Elisa Toruno [mailto:torunome@bellsouth.net]
Sent: Tuesday, July 25, 2006 6:35 PM
To: 'Sola, Lester (Elections)'; 'Mayor (Carlos Alvarez)'; 'County Manager (CMO)'
Cc: 'kfordyce@miamiherald.com'; 'Hudak, Alina T. (CMO)'; 'Smith, Tara (CMO)'
Subject: RE: Disqualification of candidate

Your response does not satisfy us because you do not disclose the name of the person or persons that filed the complaint against Ms. Gomez, which is a violation of the Sunshine Law. If Elections do not know if the candidates qualify and, according to you, that department has no obligation to know, then who would be responsible to be accurately informed? Ms. Avalos blames Elections, you do not accept any blame for Elections, then where do the citizens have to go to obtain accurate data? Maybe consult a psychic?

Once again, we request the information on who filed the complaint against Ms. Gomez. It is sad that every time someone wishes to exercise his/her rights in Dade County, those rights are quashed by our bureaucrats and the matter has to be resolved in court.

Elisa Toruno, Treasurer
Nilka Gomez Campaign

From: Sola, Lester (Elections) [mailto:SOLAL@miamidade.gov]
Sent: Tuesday, July 25, 2006 5:40 PM
To: Elisa Toruno; Mayor (Carlos Alvarez); County Manager (CMO)
Cc: kfordyce@miamiherald.com; Hudak, Alina T. (CMO); Smith, Tara (CMO)
Subject: RE: Disqualification of candidate

Thank you for your email. The Miami Dade County Elections Department serves as the receiving agent for candidate qualifying. We are not authorized to provide assistance or confirmation to candidates as to their eligibility to qualify for offices. This is primarily done in order to avoid any conflicts and to remain impartial as to the offices that potential candidate may seek. I apologize for any difficulties that you or the candidate experienced. After hearing of this situation, I personally spoke Ms. Gomez and she informed me of her discussions with Team Metro and Elections Department staff. I further explained the Elections Department's role in the candidate qualifying process and that there was in fact a complaint filed since she did not reside in the district. We have forwarded the complaint to the Miami Dade Commission on Ethics. The Commission of Ethics has the responsibility and authority to investigate these complaints. She did inform me that it was her intention to withdraw from the race since she no longer qualified for that seat.

I hope that I have explained this matter and would encourage Ms. Gomez to participate in the future in the electoral process.

Should you have any question, please feel free to contact me.

7/26/2006